

AMENDMENTS TO THE DRAWINGS:

New formal drawings are attached as Replacement Sheets pages 1-36.

REMARKS

I. Status of the Claims

Claims 27, 28, and 30-33 are currently pending in this application. No claim has been amended.

II. Drawings Objection

The Examiner requested new corrected drawings complying with the Form PTO 948 included in the Office Action. Office Action at 2. Applicants are providing a set of corrected formal drawings with this paper as Drawing Replacement Sheets pages 1-36, attached hereto.

III. Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 27, 28, and 30 to 33 under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,188,976 ("Kume et al.") for reasons discussed at page 3 of the Final Office Action. Applicants respectfully traverse the Examiner's rejection for the following reasons.

A rejection under § 102 is proper only when the claimed subject matter is identically described or disclosed in the prior art. *In re Arkley*, 455 F.2d 586, 587 (C.C.P.A. 1972). "For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." M.P.E.P. § 706.02.

Kume et al. does not anticipate the pending claims, because the reference fails to teach each and every element of the claim. Specifically, Kume et al. at least fails to teach the claimed "a side wall of the first gate electrode is connected to a side wall of the second gate electrode above the isolation element when viewed from a direction perpendicular to the first direction," as recited in claim 27.

In the Final Office Action, the Examiner asserts that FIG. 15 of Kume et al. shows a “side wall” of gate electrode 17 in a memory area which “is connected to side wall of second gate 17” in a first peripheral area in the drawing. See Office Action at 3. Kume et al., however, teaches that “film 17 is processed so as to have a shape suitable for the formation of a floating gate electrode.” (Emphasis added.) Col. 12, lines 50-53. Thus, film 17 in the memory area shown in FIG. 15 is surrounded by insulating material, and the side wall of film 17 in the memory area cannot form a connection with an adjacent film 17 in the first peripheral area, for example.

Moreover, Applicants respectfully submit that the Examiner’s apparent reliance on Figs. 7, 9, 11, and 15 of Kume et al., at page 3 of the Office Action is misplaced. These drawings illustrate “steps of a manufacturing method,” but not a completed device itself. Accordingly, these drawings do not show the claimed “a sidewall of the first gate electrode is connected to a side wall of the second gate electrode above the isolation element when viewed from a direction perpendicular to the first direction,” as recited in claim 27. Therefore, the claim is distinguishable over Kume et al. for this reason also.

In light of the above-described deficiencies of Kume et al., Applicants respectfully submit that claim 27 is allowable over the applied reference. Moreover, claims 28, and 30-33 are allowable at least due to their dependence from claim 27.

In addition, with respect to claim 28, Applicants note that the Examiner apparently relies on tungsten silicide film 40 of Kume et al. in asserting that the reference teaches a “side insulator film is substantially perpendicular to a surface of said semiconductor substrate.” Office Action at page 4. To the extent the Examiner’s

position is understood, Applicants respectfully note that tungstent silicide film 40 is conductive and does not constitute an insulator. Further, Applicants advise that film 40 is not perpendicular to substrate 11 in Kume et al. Thus, claim 28 is allowable for this reason also.

IV. Conclusion

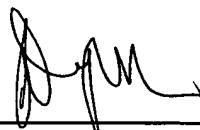
In view of the foregoing remarks, Applicants submit that this claimed invention is not anticipated by the prior art reference cited against this application. Applicants therefore request that the Examiner reconsider and reexamine the present application, and the timely issue a Notice of Allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 13, 2005

By: 
Daniel X. Yan
Reg. No. 54555

Attachment: Replacement Drawing Sheets pages 1 - 36.